

REMARKS

In response to the Final Office Action mailed August 27, 2003, Applicants submit the below remarks and respectfully requests reconsideration of the application, as amended, in light of these remarks. Claims 1-39 are rejected.

The Examiner rejected claims 1-17 and 19-38 under 35 U.S.C. § 102(e) as being anticipated by Lee, et al., (U.S. Patent Application No. 2002/0099649 A1, hereinafter “Lee”). Claims 18 and 19 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Lee, in view of Anderson, et al. (U.S. Patent No. 5,884,289, hereinafter “Anderson”).

To establish a prima facie case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. **Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations.** The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

As argued below, the prior art references simply do not teach or suggest all the claim limitations of the independent claims of the present application. Furthermore, the prior art references include no suggestion to combine reference teachings.

With respect to Lee, notwithstanding the following remarks, Applicants reserve the right to swear behind the Lee patent.

Lee discloses a technique for identifying and managing fraudulent credit/debit card purchases at merchant web sites. In particular, when a buyer requesting the purchase of goods from a merchant submits a credit card number via the merchant's web site, the merchant forwards information about the requested transaction to a scoring server, which performs a mathematical calculation to estimate the likelihood that the transaction is fraudulent. The merchant then uses the estimation provided by the scoring server to decide whether to approve, decline, ask for more information or out-sort the transaction to a human analyst.

Contrary to the presently claimed invention, in Lee fraud detection is invoked by a merchant's web site, with the merchant being a decision maker with respect to a transaction that was evaluated for fraud. That is, in Lee the merchant decides whether to approve, decline, ask for more information or refer the transaction to a human analyst. In the present invention, in contrast, a fraud detection mechanism is invoked by a payment facilitator system that facilitates payment transactions between multiple sellers and buyers and makes decisions with respect to transactions evaluated for fraud. In particular, in the presently claimed invention, if automated analysis of transaction information detects fraud, enhanced transaction information is communicated to a human for manual fraud analysis. If no fraud is detected, a seller is instructed to send a purchased product to a buyer and when an indication that the buyer received the purchased product is obtained, the seller's account is credited for the amount of the purchased product. For example, the present Specification describes some exemplary embodiments of the present invention as follows:

If the transaction does not appear to be fraudulent, the payment facilitator system debits the buyer's account and sends an email message instructing the

seller to complete the sale, as shown in block 314. In response to such an email message, the seller then sends the good(s) to the buyer in an agreed-upon manner. In one embodiment, the payment facilitator system then credits the seller's financial account upon receipt of an email note from the buyer confirming completion of the sale or after a specified period of time, as shown in block 316. In this embodiment, the seller's account is credited when the buyer confirms that the good(s) have been received. Alternatively, in this embodiment, if the buyer fails to confirm receipt of the good(s) and does not inform the payment facilitator system that the good(s) were not received, the seller's account is credited for the sale. In another embodiment, the payment facilitator system may send an email message to the buyer asking the buyer to confirm receipt of the goods. This message could also state that if no response to the email message is received, the buyer's account will be debited and/or the seller's account will be credited if no response is received within a specified period of time.

(Specification, page 14, line 17 through page 15, line 4).

Lee does not teach or suggest at least the above discussed features of the presently claimed invention that include instructing the seller to send the product to the buyer and crediting the seller's account for the amount of the purchased product in response to an indication that the buyer received the purchased product, if an automated analysis of transaction information does not detect fraud.

With respect to Anderson, this reference describes a system that facilitates the detection and control of counterfeit debit card fraud. The system alerts issuers of debit cards to undetected multiple debit card fraud conditions by scanning and analyzing cardholder debit fraud information entered by the issuer's employees. The result of this analysis is the possible identification of cardholders who have been defrauded but have not yet realized it, so they are "at risk" of additional fraudulent transactions.

Contrary to the presently claimed invention, the system in Anderson does not communicate with sellers and buyers. Instead, the system in Anderson receives information from issuers of debit cards and sends notifications of the suspect transactions to the issuers. Accordingly, Anderson does not teach or suggest at least the same features

that are missing from Lee, i.e., if automated analysis of transaction information does not detect fraud, instructing the seller to send the product to the buyer and crediting the seller's account for the amount of the purchased product in response to an indication that the buyer received the purchased product.

Thus, each of the cited references lacks at least the features of the present invention that are included in the following language of claim 1:

... if the automated analysis does not detect fraud, instructing the seller to send the product to the buyer and crediting an account of the seller for the purchase in response to an indication that the buyer received the product...

Similar language is also contained in claims 19 and 27. Accordingly, claims 1, 19 and 27, and their corresponding dependent claims are patentable over Anderson.

Thus, Applicants respectfully submits that Applicants' invention as claimed in independent claims 1, 19 and 27 and corresponding dependent claims 2-18, 20-26 and 28-39 is not rendered obvious by the above references, and respectfully requests the withdrawal of the rejections under 35 U.S.C. § 103(a). Applicants furthermore submits that all pending claims are in condition for allowance, which is earnestly solicited.

If the Examiner determines that the prompt allowance of these claims could be facilitated by a telephone conference, the Examiner is invited to contact Marina Portnova at (408) 720-8300.

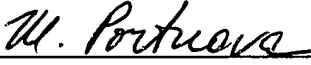
Deposit Account Authorization

Authorization is hereby given to charge our Deposit Account No. 02-2666 for any charges that may be due. Furthermore, if an extension is required, then Applicants hereby request such extension.

Respectfully submitted,

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